



POSTAL SERVICE

39 CFR Part 111

Periodicals — Recognition of Distribution of Periodicals via Electronic Copies

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service will revise the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) 707.6 to permit limited reporting of electronic copies of Periodicals publications to satisfy the circulation standards for Periodicals qualification. Standards require that at least 50% of the circulated copies be distributed to those who subscribe to a general publication or request a Requester publication.

DATES: *Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].*

FOR FURTHER INFORMATION CONTACT: Susan Thomas 202-268-8069.

SUPPLEMENTARY INFORMATION: On, February 3, 2012, the Postal Service published a *Federal Register* proposed rule *Periodicals – Recognition of Distribution of Periodicals via Electronic Copies* (77 FR 5470-5471) revising DMM 707.6 by adding optional reporting of electronic copies of Periodicals publications as a legitimate form of distribution. Recent advances in technology allow distribution of Periodicals publications through various electronic media channels. According to the standards that govern the Periodicals class, all paid circulation for publications authorized in the General category, and all requested

circulation for publications authorized in the Requester category, may be counted toward the publication's eligibility for Periodicals prices.

Efforts to identify the conditions that allow electronic copies of Periodicals to be counted with other distribution outside the mails have been ongoing. During that time, the transition from traditional printed copies of Periodicals to electronic copies of the same publications has grown. Many factors contributed to this migration, including the proliferation of electronic reading devices and the subscriber's desire to read news immediately upon publication.

Comments

We received 28 comments. One included a survey conducted by the National Newspaper Association requesting feedback from publishers of small circulation publications. 27 individuals and all who responded to the survey approved this modification and recommended immediate adoption. One commenter expressed concern stating that this change does not clearly state the conditions of continuing eligibility. Additional language has been added to our proposed standards to clarify eligibility requirements.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR Part 111 is amended as follows:

PART 111 – [AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

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700 Special Standards

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707 Periodicals

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6.0 Qualification Categories

6.1 General Publications

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6.1.2 Circulation Standards

General publications must meet these circulation standards:

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[Revise the first sentence in f as follows:]

f. At least 50% of a publication's distribution must be to persons who have paid above a nominal price. (For explanation of how electronic copies may be included, see 6.5.) * * *

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6.4 Requester Publications

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6.4.2 Circulation Standards

Requester publications must meet these circulation standards:

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[Revise item b as follows:]

b. Subscription copies of the publications that are paid for or promised to be paid for, including those at or below a nominal price, may be included in the determination of whether the 50% request requirement is met. (For explanation of how electronic copies may be included, see 6.5.)

* * * *

[Renumber current 6.5 through 6.6 as new 6.6 through 6.7 and add new 6.5 as follows:]

6.5 Electronic Copies

Copies of Periodicals publications distributed through email or by accessing a password protected website may be counted toward an approved or pending general or requester publication's eligibility for Periodicals prices. The following conditions additionally apply:

- a. Electronic copies that may be counted toward a publication's eligibility for Periodicals prices:
 1. Must be paid at a price above nominal rate for publications approved in the General category; or

2. Must be requested in writing or by electronic correspondence for publications approved in the Requester category.
- b. Electronic copies of a Periodicals publication for which access is offered free in conjunction with printed copies of the same issues may not be counted when determining total circulation for the publication.
- c. At least 40% of the total circulation of each issue must consist of printed copies distributed to paying subscribers or requesters, as applicable. Up to 10% of the distributed copies used to qualify or remain eligible for Periodicals prices may be copies that are paid or requested to be sent electronically.
- d. If less than 60% of a Periodicals publication's total circulation consists of printed copies distributed to paying subscribers or requesters, as applicable, annual Postal eligibility audits must be conducted by a certified audit bureau.

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We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

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